IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

Narain Prakash & Anr.

Versus

Bajranglal Jain

S.B. CIVIL REVISION PETITION NO.57/06

DATE OF ORDER : 14/09/2006

Hon'ble Shri Justice Ajay Rastogi

Dr. Mahesh Sharma, for petitioner
Mr. R.P. Vijay, for respondent

BY THE COURT:

Instant revision petition has been filed by the defendant-petitioner against the order dated 14th February, 2006 whereby Rs.3,000/- has been fixed as provisional rent of the suit premises u/s.7 of Rent Control Act.

The plaintiff-non-petitioner filed a suit for eviction of the suit premises and determination of rent which is pending adjudication before the learned trial Judge. Application was filed by the plaintiff-non-petitioner u/s.7 of the Act for determination of provisional rent. Prior to the controversy which has been raised in the present revision petition, earlier the provisional rent was determined after taking note of the provisions of Rajasthan Rent Control Act, 2001 which undisputedly is not applicable for adjudication, as the present suit is pending adjudication under the Rajasthan Premises [Control of Rent & Eviction] Act, 1950. Taking recourse to the Act of 2001, the provisional standard rent of Rs.2388/- was determined which was challenged by the defendant-petitioner before this Court in Civil Revision Petition No.886/2003. After hearing the counsel for parties, the revision petition was allowed vide order dated 5th August, 2005 and impugned judgment was

set aside and the matter was remanded back to the Additional District Judge No.3, Kota to decide the appeal afresh in the light of the provisions of Sections 6 & 7 of the Old Act, 1950.

After the matter was remanded before the learned First Appellate Court, the learned Court has determined the provisional rent of Rs.3,000/- under the order impugned dated 14th February, 2006.

The submissions and the counter submissions have been made by the parties and proposal extended by this court that rent of the premises is Rs.600/- and the learned trial Judge fixed the provisional standard rent of Rs.1,000/- under the order impugned it has been enhanced to Rs.3,000/- per month. This court proposes to consider the provisional rent looking to the fact that commercial premises were let out in 1977 and almost 30 years have passed by now and the provisional rent if determined of Rs.2,000/- per month will be appropriate. Both the parties agreed to it that the provisional rent be considered Rs.2,000/- subject to the final decision under the suit pending before the learned trial Judge.

Without going into merits of the matter, accordingly the order of the First Appellate Court stands modified and Rs.2000/- is fixed as provisional rent of the suit premises which shall be subject to final decision of the pending suit before the learned trial Judge.

With the above modification, the present revision petition stands disposed of. Rest conditions will remain the same.

[Ajay Rastogi],J.

FRBOHRA,JR.P.A.